

CRIMINAL MISC.APPLICATION No 2859 of 1999

Hon'ble MR.JUSTICE A.R.DAVE

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Versus

NARENDRA GANPATMAL BHANDARI      GENARAL MANAGER.,

MR RC KAKKAD for Petitioner

MR PA MEHTA for Respondent No. 1

MR UMESH TRIVEDI, APP, for Respondent No. 2

CORAM : MR.JUSTICE A.R.DAVE

Date of decision: 07/12/1999

## ORAL JUDGEMENT

Rule. Learned APP Shri Umesh Trivedi waives

service of rule for respondent No. 2 and learned advocate Shri P.A. Mehta appearing for M/s. Nanavati Associates waives service of rule for respondent No. 1. With consent of the learned advocates, the matter is finally heard today.

2. The petitioner is the original applicant who had filed Criminal Misc. Application No. 1058/90 for quashing Criminal Case No. 6279/88 filed in the court of Metropolitan Magistrate, Ahmedabad. The said application had been admitted and interim relief was also granted in favour of the present petitioner.

3. During pendency of the said application, learned advocate Shri Dinesh Desai who was appearing for the present petitioner had expired. In the circumstances, notice was issued to the petitioner which could not be served upon him as the petitioner had changed his address in the meantime. In the circumstances referred to hereinabove, Criminal Misc. Application No. 1058/90 was not attended to and the said application was dismissed on 6th August 1998 and interim relief granted in the said application was vacated.

4. By virtue of the present application, it has been prayed that Criminal Misc. Application No. 1058/90 be restored to file as the petitioner was not aware of the fact that his advocate Shri Dinesh Desai had expired and due to his changed address he could not receive intimation to that effect from this court.

5. Looking to the facts and circumstances stated hereinabove, in the interest of justice, Criminal Misc. Application No. 1058/90 requires to be restored to file as it had been dismissed for non-prosecution.

6. Criminal Misc. Application No. 1058/90 is restored to file and shall be notified for final hearing.

7. Criminal Misc. Application No. 1058/90 shall be notified for final hearing. Ad-interim relief which has been granted in this application shall continue to remain in force till 31.1.2000. In the meantime, the matter with regard to interim relief shall be decided in Criminal Misc. Application No. 1058/90.

8. In view of the above-referred facts and circumstances, this application is allowed. Rule is made absolute.

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